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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,286	05/29/2001	Robert Ried	IO-1002-US	6239

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EXAMINER

KWOK, HELEN C

ART UNIT PAPER NUMBER

2856

DATE MAILED: 03/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/867,286

Applicant(s)

Ried et al.

Examiner

H. Kwok

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 19, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 27-36 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other: _____

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DETAILED ACTION

Election/Restriction

1. Applicant's election without traverse of Group I (Claims 1-18 and 27-36) in Paper No. 8 is acknowledged.

2. Claims 19-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made without traverse in Paper No. 8.

Priority

3. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

Claim Objections

4. Claims 6, 9, 15, 18, 31 and 36 are objected to because of the following informalities.

Appropriate correction is required.

In claim 6, line 1, the phrase "the width" should be changed to -- a width --. In line 2, the phrase "the direction" should be changed to -- a direction --.

In claim 9, line 2, the phrase "the direction" should be changed to -- a direction --.

In claim 15, line 1, the phrase "the width" should be changed to - a width --. In line 2, the phrase "the direction" should be changed to -- a direction --.

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In claim 18, line 1, the phrase "the direction" should be changed to -- a direction --.

In claim 31, line 1, the phrase "the width" should be changed to -- a width --. In line 2, the phrase "the direction" should be changed to -- a direction --.

In claim 36, line 1, the phrase "the width" should be changed to -- a width --. In line 1, the phrase "in the" should be changed to -- in a --.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 4, 13, 29 and 34 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification and drawings, as originally filed, does not suggest or teach the re-entrant grooves are criss-crossed as claimed in claims 4, 13, 29 and 34.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claims 1-18 and 27-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 9, the phrase “the surfaces” lacks antecedent basis.

In claim 6, line 2, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

In claim 8, line 2, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

In claim 9, line 2, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

In claim 10, line 7, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify. In line 8, the phrase “the surfaces” lacks antecedent basis. In line 8, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

In claim 15, line 2, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

In claim 17, line 2, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

In claim 18, line 2, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

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In claim 27, line 9, the phrase “the surfaces” lacks antecedent basis.

In claim 31, line 2, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

In claim 32, line 7, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify. In line 8, the phrase “the surfaces” lacks antecedent basis. In line 8, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

In claim 35, line 1, the phrase “the re-entrant grooves” lacks antecedent basis.

In claim 36, line 2, the phrase “the electrodes” is vague. Is this referring to the mass electrodes or the top and bottom capacitor electrodes? Please clarify.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-18 and 27-36 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 13, 25 and 37 of copending Application No. 09/886,320 (Selvakumar et al.). Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations in the instant application are claimed in the copending Application No. 09/886,320. Although the claims do not claim the specific dimensions and/or arrangement of the re-entrant openings or grooves, it would have been obvious to an artisan to use other dimensions and/or arrangement without departing from the scope of the invention and the dimensions and/or arrangement as claimed is not necessarily limited to such limitations.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-2, 7-8, 10-11, 16-17, 27 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated either by U.S. Patent 4,930,042 (Wiegand et al.) or U.S. Patent 5,652,384 (Henrion et al.). [It should be noted that the first reference numeral corresponds to Wiegand et al., while the second reference numeral corresponds to Henrion et al.]

With regards to claims 1-2, 7-8, 10-11, 16-17, 27 and 32, the references, Wiegand et al. and Henrion et al., disclose an accelerometer comprising a mass (110, 16); a housing (120, 18) having a cavity; a spring mass assembly (162, 32) within the cavity; one or more electrodes coupled to the spring mass assembly; a top cap wafer (20, 12) including a top capacitor electrode; a bottom cap wafer (30, 14) including a bottom capacitor electrode wherein surfaces of one or more other mass electrodes, top capacitor electrode or the bottom capacitor electrode include one or more re-entrant openings or grooves or holes (24,26; 6). (See, Figure 1, column 1, line 66 to column 4, line 11 of Wiegand et al.; Figure 3, column 3, line 24 to column 4, line 53 of Henrion et al.).

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Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


14. Claims 3-6, 9, 12-15, 18, 28-31 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over either U.S. Patent 4,930,042 (Wiegand et al.) or U.S. Patent 5,652,384 (Henrion et al.).

With regards to claims 3-6, 9, 12-15, 18, 28-31 and 33-36, the references, Wiegand et al. and Henrion et al., do not suggest the specific dimensions and/or arrangement of the re-entrant openings or grooves or holes, as in these claims. It would have been obvious to a person of ordinary skills in the art at the time of invention to have readily recognize the advantages and desirability of constructing the re-entrant openings or grooves or holes since this is a mere design expedient without departing from the scope of the invention and the dimensions and/or arrangement as claimed is not necessarily limited to such limitations. (Note: In re Dailey, 149 USPQ (CCPA 1976)).

Conclusion

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Kwok whose telephone number is (703) 308-8149.


Helen C. Kwok
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hck
March 9, 2003